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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,698	01/22/2001	Alan W. H. Grant	48971-023 (AWGK-001)	1729
53961	7590	09/06/2007	EXAMINER	
FALKOWSKI PLLC			CASLER, TRACI	
P.O. BOX 650			ART UNIT	PAPER NUMBER
NOVI, MI 48376-0650			3629	
			MAIL DATE	DELIVERY MODE
			09/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/766,698	GRANT, ALAN W. H.	
	Examiner	Art Unit	
	Traci L. Casler	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 June 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 22 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

This action is in response to papers filed on June 18, 2007.

Claims 1-21 have been cancelled.

Claim 22 has been added.

Claim 22 is rejected.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claims are directed towards "calculating" a value exchange gap. The disclosure fails to teach what type of calculation is done using the total cost with respect to the "benefit". The claims states "comparing" but what calculation is done once the values are compared. A comparison is simply looking at the numbers but does not constitute any type of calculation.

3. The claims further claim "USING" the value exchange gap with various other aspects of the invention to selectively identify a desirable exchange element.

Applicants disclosure fails to teach how all these elements of the invention are used to "selectively" identify an "exchange element".

4. The claims are additionally drawn to the limitation of “capturing” a mindset attribute but fails to disclose the steps or process for “capturing” the constituents mindset.
5. The claims are also drawn to the limitation of assigning a valuation to behaviors but fails to set forth steps for which one should proceed for assigning a value to a valuation.
6. The disclosure fails to teach how one identifies the “cost to an entity” for an exchange element. How does one know to what extent an costs an entity? How does one come about determining the value of the cost? What information is used in identifying the cost? How does the cost vary according to constituent populations

Claim Rejections - 35 USC § 101

7. Claim 22 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a claim to be considered statutory it must produce a useful, concrete and tangible result. These rejections are being directed towards the “concreteness” of the invention as claimed. In order for the result produced to be considered concrete it must be reproducible. Applicant fully admits that one individual could obtain different results based on their mood for the day. This is then a subjective analysis of information which cannot even be reproduced by the same user when completing the same steps. The applicant supplies no objective fact base clues or rules as to how any of the values are identified or how one comes to a conclusion of a cost. Applicants example of an airline using the invention merely shows one type of

data that is being input into a system. Applicants own statements the invention is capable of being configured in multiple ways to generate different results. This is the basis for the concrete rejection. The applicant sets forth no objective fact based clues in the specification how one skilled in any art would accomplish any of the steps or processes as claimed. Examiner notes that "subjectivity" alone is not being used as the basis for the rejection of lacking concreteness. The fact that results are not repeatable and predictable as noted by applicant the claims do not meet the statutory of patentable subject matter.

Claim Rejections - 35 USC § 102

8. Claim 22 is rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention.
9. Harvard Business Review: Realize Your Customers Full Profit Potential; Alan WH Grand and Leonard A. Schlesinger; 09/1995.
10. The applicants invention is disclosed the noted non-patent literature article as being disclosed in a public manner almost five years prior to filing any type of patent application. The article teaches productivity model that uses a value exchange; which is a relationship between a company and it's customer and how the customer responds to a company's offerings. Companies use the value exchange for "defining their target customer base, quantifying the current and full-potential value of these relationships and commit the entire company to closing the gap between the two.

Response to Arguments

11. Applicant's arguments filed June 18, 2007 have been fully considered but they are not persuasive.
12. As to applicants arguments regarding the inventions utility the examiner notes the 35 USC 101 rejection is being applied as a concrete issue not a "utility issue."
13. As to applicants arguments with regard to previous issued patents compared to the instant applicants, although they may be interesting , issued patents are not precedential on the examiner we do not make the same decisions/conclusions. Furthermore, it is public policy of the USPTO to refuse to express to any person any opinion as to the validity of invalidity of, or patentability or unpatentability of any claim in any US Patent. Additionally, the applicant is advised according to the MPEP 1701 Practitioners shall not make improper inquiries of members of the patent examining corps. Inquiries relating to the matters discussed above must of necessity be refused and such refusal should not be considered discourteous or an expression of opinion as to validity patentability or enforceability.
14. As to applicants regarding the rejections under 35 USC 101 applicant states that the amendment changing "identifying" to storing overcomes the enablement rejection. The examiner notes if the values are store they were(had to be) identified/determined prior to storing them. The applicant has fails to identify how one would know how to identify the limitations at question as well as how the calculations are done using these values.

15. As to applicants statements regarding the 102(b) rejection the applicant has fails to distinguish how the new claim is different or distinct than the prior art of record.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

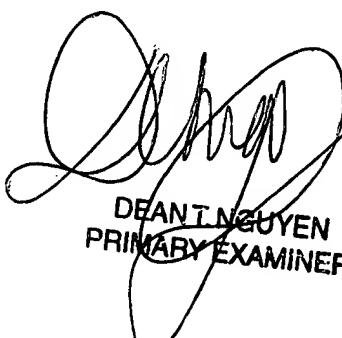
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TLC
JL


8/20/08
DEANT NGUYEN
PRIMARY EXAMINER